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December 11, 2018

J. Russell George  
Treasury Inspector General for Tax Administration  
City Center Building  
1401 H Street, NW, Suite 469  
Washington, DC 20005

**Re: Complaint of Violation by Entergy Charitable Foundation**

Dear Inspector General George:

We, the undersigned organizations and advocates, write you to file this formal complaint against Entergy Charitable Foundation and request that you conduct a full investigation into its apparently illegal actions in:

- (1) lobbying the New Orleans City Council and
- (2) requesting non-profit organizations make public statements in support of a proposed gas plant in exchange for donations made by the foundation.

Entergy New Orleans has sought approval from the New Orleans City Council, the legislative body of city government, to build a new gas plant. That process has been marred by documented evidence that Entergy engaged in a comprehensive effort to employ professional actors to fill up meeting rooms and speak at public meetings as though they were concerned residents in support of Entergy's position.<sup>1</sup>

We make this complaint to you about yet another illegal abuse of power by Entergy. Specifically, there is widespread evidence that Entergy repeatedly used its 501 (c) (3) foundation, Entergy Charitable Foundation, to recruit recipients of its charitable donations to take public positions in support of the proposed gas plant as a quid pro quo exchange for the donations, as well as lobby the New Orleans City Council to advance Entergy's legislative agenda. This direct legislative lobbying appears to be illegal under the rules of the IRS for such tax exempt corporations. Additionally, it appears to be illegal for a donor to extract a good or service from a contribution made to a nonprofit organization without the requisite disclosure and deduction. We ask you to use your subpoena power to investigate these complaints and to take all necessary actions to enforce the law.

Here are the facts as we know them.

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<sup>1</sup> Entergy New Orleans, LLC Investigation Final Report, Oct. 29, 2018. Online at:  
[http://cityofno.granicus.com/MetaViewer.php?view\\_id=3&event\\_id=21589&meta\\_id=426710](http://cityofno.granicus.com/MetaViewer.php?view_id=3&event_id=21589&meta_id=426710)

One. Entergy Charitable Foundation is a 501 (c) (3) tax-exempt private foundation with millions of dollars in assets donated by the Entergy for-profit corporate entities, including Entergy New Orleans, LLC, the applicant seeking City Council approval for the construction of a gas plant, and Entergy Services, Inc., the corporation that assisted in preparing the application.<sup>2</sup>

Two. The Internal Revenue Service has strict rules against tax exempt organizations lobbying<sup>3</sup> and failing to disclose quid pro quo contributions made to nonprofit organizations.<sup>4</sup>

Three. As part of its legislative lobbying effort and quid pro quo scheme, Entergy drafted letters to nonprofit organizations, referred to by Entergy as “community partners,” stating that Entergy had “contributed millions of dollars to hundreds of non-profits to support their programs, we find ourselves in need of your assistance.”<sup>5</sup>

Four. All these “community partners” are nonprofit organizations that received donations from Entergy Charitable Foundation based on decisions by a committee headed up by the President of Entergy New Orleans, LLC, the applicant for the proposed gas plant.<sup>6</sup>

Five. In July 2016, Entergy paid a contractor to draft a statement for the New Orleans Council on Aging, a nonprofit organization, to present to the City Council that was in support of the proposed Entergy gas plant. A representative of the Council on Aging duly spoke in favor of the plant at a public hearing convened by the City Council. Two days later, Entergy Charitable Foundation awarded a \$308,323 grant to the agency.<sup>7</sup>

Six. Entergy’s Vice-President of Corporate Social Responsibility communicated with several of ENO’s “community partners” and requested these non-profit organizations to attend public hearings on the

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<sup>2</sup> See 990 Form filed by Entergy Charitable Foundation, available online at:

[https://projects.propublica.org/nonprofits/display\\_990/710845366/2016\\_11\\_PF%2F71-0845366\\_990PF\\_201512](https://projects.propublica.org/nonprofits/display_990/710845366/2016_11_PF%2F71-0845366_990PF_201512)

<sup>3</sup> Here is what the IRS posts online about this issue: “In general, no organization may qualify for section 501(c)(3) status if a substantial part of its activities is attempting to influence legislation (commonly known as lobbying). A 501(c)(3) organization may engage in some lobbying, but too much lobbying activity risks loss of tax-exempt status. Legislation includes action by Congress, any state legislature, any local council, or similar governing body, with respect to acts, bills, resolutions, or similar items (such as legislative confirmation of appointive office), or by the public in referendum, ballot initiative, constitutional amendment, or similar procedure. It does not include actions by executive, judicial, or administrative bodies. An organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation. Organizations may, however, involve themselves in issues of public policy without the activity being considered as lobbying. For example, organizations may conduct educational meetings, prepare and distribute educational materials, or otherwise consider public policy issues in an educational manner without jeopardizing their tax-exempt status.” <https://www.irs.gov/charities-non-profits/lobbying>

<sup>4</sup> 26 USC § 6115.

<sup>5</sup> Entergy New Orleans, LLC Investigation Final Report, page 10. Online at:

[http://cityofno.granicus.com/MetaViewer.php?view\\_id=3&event\\_id=21589&meta\\_id=426710](http://cityofno.granicus.com/MetaViewer.php?view_id=3&event_id=21589&meta_id=426710)

<sup>6</sup> Entergy New Orleans, LLC Investigation Final Report, Interview: Riddlebarger, p. 31. Online at:

[http://cityofno.granicus.com/MetaViewer.php?view\\_id=3&event\\_id=21589&meta\\_id=426710](http://cityofno.granicus.com/MetaViewer.php?view_id=3&event_id=21589&meta_id=426710)

<sup>7</sup> Michael Isaac Stein, “Entergy leverages charitable giving to avoid City Council fine,” *The Lens*, Nov. 30, 2018.

Online at: <https://thelensnola.org/2018/11/30/entergy-leverages-charitable-giving-to-avoid-city-council-fine/>



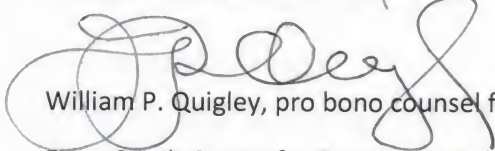
proposed Entergy gas plant, which were convened by the City Council on October 2017, February 2018, and March 2018.<sup>8</sup>

Seven. As part of Entergy's initial lobbying for the New Orleans City Council to approve its proposed gas plant, at least nineteen recipients funded by Entergy's charitable donations appeared before the council to lobby in favor of Entergy's legislative agenda.<sup>9</sup> These lobbying efforts by the non-profit grantees of Entergy were so blatant that they were criticized on the record by two members of the New Orleans City Council during one of the public hearings on the proposed Entergy gas plant.<sup>10</sup>

Eight. Despite all this, on November 30, 2018, The Lens reported that several of the grant recipients of the Entergy Charitable Foundation were asked, yet again, to lobby the New Orleans City Council on behalf of specific legislative decisions which Entergy is seeking.<sup>11</sup>

We ask you to file this as a formal complaint and to conduct an investigation into whether these lobbying activities by Entergy Charitable Foundation violated the laws. With your subpoena power, we are confident you can document these facts and we ask you to take all appropriate actions.

Thank you for your consideration,



William P. Quigley, pro bono counsel for:

Deep South Center for Environmental Justice

VAYLA New Orleans

350 New Orleans

Alliance for Affordable Energy

Justice & Beyond

Green Justice

cc: Council of the City of New Orleans - Mr. Jason Williams (At-Large), Ms. Helena Moreno (At-Large), Mr. Joseph Giarrusso (District A), Mr. Jay Banks (District B), Ms. Kristin Gisleson Palmer (District C), Mr. Jared Brossett (District D), and Ms. Cyndi Nguyen (District E)

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<sup>8</sup> Entergy New Orleans, LLC Investigation Final Report, page 21. Online at: [http://cityofno.granicus.com/MetaViewer.php?view\\_id=3&event\\_id=21589&meta\\_id=426710](http://cityofno.granicus.com/MetaViewer.php?view_id=3&event_id=21589&meta_id=426710)

<sup>9</sup> Michael Isaac Stein, "Entergy leverages charitable giving to avoid City Council fine," The Lens, Nov. 30, 2018. Online at: <https://thelensnola.org/2018/11/30/entergy-leverages-charitable-giving-to-avoid-city-council-fine/>

<sup>10</sup> Michael Isaac Stein, "Entergy leverages charitable giving to avoid City Council fine," The Lens, Nov. 30, 2018. Online at: <https://thelensnola.org/2018/11/30/entergy-leverages-charitable-giving-to-avoid-city-council-fine/>

<sup>11</sup> Michael Isaac Stein, "Entergy leverages charitable giving to avoid City Council fine," The Lens, Nov. 30, 2018. Online at: <https://thelensnola.org/2018/11/30/entergy-leverages-charitable-giving-to-avoid-city-council-fine/>